

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.

NB:RAT

NOV 01 2010

10-1292M

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
LONG ISLAND OFFICE

- - - - - X

UNITED STATES OF AMERICA

- against -

MARTIN PADILLA MICHEL,

Defendant.

FILED UNDER SEAL

COMPLAINT AND AFFIDAVIT IN
SUPPORT OF APPLICATION FOR
ARREST WARRANT

Cr. No. _____
(T. 8, U.S.C., §§
1326(a) and 1326(b)(2))

- - - - - X

EASTERN DISTRICT OF NEW YORK, SS:

ANDREW STEINBORN, being duly sworn, deposes and states that he is a Deportation Officer with United States Immigration and Customs Enforcement ("ICE"), duly appointed according to law and acting as such.

On or about December 31, 2009, within the Eastern District of New York and elsewhere, the defendant MARTIN PADILLA MICHEL, an alien who had previously been deported from the United States after a conviction for an aggravated felony, was found in the United States without the Secretary of the United States Department of Homeland Security, successor to the Attorney General of the United States, having expressly consented to such alien's applying for admission.

(Title 8, United States Code, Section 1326(b)(2)).

The source of your deponent's information and the grounds for his belief are as follows:^{1/}

1. I am a Deportation Officer with ICE and have been involved in the investigation of numerous cases involving the illegal re-entry of aliens. I am familiar with the facts and circumstances set forth below from my participation in the investigation; my review of the ICE investigative file, including the defendant's criminal history record; and from reports of other law enforcement officers involved in the investigation.

2. On or about July 21, 2010, ICE officials provided the New York State Division of Criminal Justice Services ("NYSDCJS") with a list of aliens who had been previously removed from the United States. ICE requested that NYSDCJS search its records to determine which of these aliens had been arrested by state authorities in New York on a date subsequent to their removal from the United States.

3. On or about August 2, 2010, after receiving the requested information from NYSDCJS, ICE learned that the defendant MARTIN PADILLA MICHEL, had been arrested by the Nassau County Police Department on December 31, 2009 for Aggravated

^{1/} Because the purpose of this Complaint is to set forth only those facts necessary to establish probable cause to arrest, I have not described all of the relevant facts and circumstances of which I am aware.

Harassment in the 2nd Degree in violation of New York Penal Law § 240.30(1), a class A misdemeanor.

4. According to ICE records, the defendant, a citizen of Mexico, had been previously last removed from the United States on July 7, 2006.^{2/}

5. ICE officials further determined, based on a criminal history report and a certificate of conviction, that on or about November 9, 2001 in the United States District Court, for the District of Colorado, the defendant was convicted of Aggravated Illegal Reentry in violation of Title 8, United States Code, Section 1326(b)(2), and was sentenced to 70 months' imprisonment on the same date.

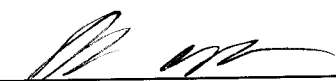
6. An ICE official with fingerprint analysis training compared the fingerprints taken in connection with the defendant's arrest underlying his November 9, 2001 conviction; the fingerprint taken in connection with the defendant's July 7, 2006 removal; and the fingerprints taken in connection with the defendant's December 31, 2009 arrest, and determined that all three sets of fingerprints were made by the same individual.

7. A search of ICE records has revealed that there exists no request by the defendant for permission from the Secretary of the United States Department of Homeland Security,

² In addition to the July 7, 2006 removal, defendant had previously been removed from the United States on September 2, 1999 and November 7, 1996.

successor to the Attorney General of the United States, to reapply for admission to reenter the United States after removal.

WHEREFORE, your deponent respectfully requests that an arrest warrant be issued for the defendant MARTIN PADILLA MICHEL, so that he may be dealt with according to law and direct that the warrant and this affidavit remain under seal until further order of the Court.



ANDREW STEINBORN
Deportation Officer
U.S. Immigration and Customs
Enforcement

Sworn to before me this
1st day of November, 2010

HONORABLE WILLIAM D. WALL
UNITED STATES MAGISTRATE JUDGE
EASTERN DISTRICT OF NEW YORK